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3 UNITED STATES DISTRICT COURT
4 EASTERN DISTRICT OF WASHINGTON

5 UNITED STATES OF AMERICA,
6
7 Plaintiff,

8 -vs-

9 JERAD JOHN KYNASTON (1),
10 SAMUEL MICHAEL DOYLE (2),
11 BRICE CHRISTIAN DAVIS (5),
12 JAYDE DILLON EVANS (6), and
13 TYLER SCOTT McKINLEY (7),

14 Defendants.

No. 2:12-CR-0016-WFN

ORDER

15 A pretrial conference and motion hearing was held September 23, 2014. The
16 Defendants, who are not in custody, were present, except Defendant Evans who was
17 excused by the Court prior to the beginning of the hearing due to a family medical
18 emergency, and represented as listed below; Assistant United States Attorneys Timothy
19 Ohms and Russell Smoot represented the Government.

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Defendant	Defense Counsel
Jerad John Kynaston (1)	Robert R. Fischer
Samuel Michael Doyle (2)	Douglas Phelps and Douglas Hiatt
Brice Christian Davis (5)	David M. Miller
Jayde Dillon Evans (6)	Nicholas V. Vieth
Tyler Scott McKinley (7)	Richard D. Wall

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26 The Court addressed pending pretrial motions. The Court has reviewed the file and
27 Defendant's Motions and is fully informed. This Order is entered to memorialize and
28 supplement the oral rulings of the Court. Accordingly,

1 **IT IS ORDERED** that:

2 1. The Court clarifies that the Defendants remain joined for pretrial matters, so any
3 motion filed by any Defendant in this multi-Defendant matter, which is not limited by its
4 subject matter to the single Defendant filing the motion, shall be considered to be a motion
5 filed on behalf of all co-Defendants. A co-Defendant who does not wish to join a
6 particular motion shall file a notice to that effect. This will avoid the necessity of all
7 Defendants filing duplicative motions.

8 2. Defendant's Motion in Limine to Exclude Evidence for Purposes of Sentence
9 Enhancement and for Any Other Purpose at Trial, filed September 5, 2014, **ECF No. 492**,
10 is **RESERVED**. The Court granted Defendants' request for additional briefing.

11 (a) Additional briefing shall be filed and served no later than **October 20,**
12 **2014.**

13 (b) The Government's response shall be filed and served no later than
14 **November 3, 2014.**

15 3. Defendants' Motions to Continue, filed September 5 and 22, 2014, **ECF Nos.**
16 **498 and 530**, are **GRANTED**.

17 The Court finds that the ends of justice served by the granting of a continuance
18 of the trial in this matter outweigh the best interests of the public and the Defendant in a
19 speedy trial. A trial date of October 14, 21, 28, or November 3, 2014 would unreasonably
20 deny Defendants the opportunity to review discovery, file appropriate pretrial motions,
21 investigate the charges against them, and to benefit from effective assistance of counsel,
22 taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(7).

23 4. The trial dates of October 14, 21, 28, and November 3, 2014, are **STRICKEN**
24 **and RESET as follows:**

25 (a) As to **Brice Christian Davis (5)**, trial shall be held **February 2, 2015, at**
26 **1:00 p.m., in Spokane, Washington;**

27 (b) As to **Jerad John Kynaston (1) and Samuel Michael Doyle (2)**, trial shall
28 be held **February 10, 2015, at 1:00 p.m., in Spokane, Washington;**

1 (c) As to **Tyler Scott McKinley (7)**, trial shall be held, **February 17, 2015, at**
2 **1:00 p.m., in Spokane**, Washington;

3 (d) As to **Jayde Dillon Evans (6)**, trial shall be held, **February 23, 2015, at**
4 **1:00 p.m., in Spokane**, Washington.

5 5. All time from the currently set trial dates to the new trial dates listed above, is
6 **EXCLUDED** for speedy trial calculations pursuant to 18 U.S.C. § 3161(h)(7). Defendants
7 each executed a waiver of speedy trial rights except Defendant Evans (6) due to his
8 excused absence. Counsel shall file Defendant Evans' waiver of speedy trial no later than
9 **October 3, 2014**.

10 6. The October 14, 2014 final pretrial conference and motion hearing is
11 **STRICKEN and RESET to February 2, 2015, at 10:00 a.m., in Spokane**, Washington.

12 7. All time from the filing of Defendant's Motion to Continue on September 5,
13 2014, to the date of the hearing on September 23, 2014, is **EXCLUDED** for speedy trial
14 calculations pursuant to 18 U.S.C. § 3161(h)(1)(D).

15 8. Motions in limine **as to all Defendants** shall be filed and served on or before
16 **January 20, 2015**.

17 9. Trial briefs, requested voir dire and a set of proposed **JOINT JURY**
18 **INSTRUCTIONS** shall be filed and served **two weeks BEFORE each respective trial as**
19 **to the Defendant(s) proceeding to trial**.

20 Jury instructions should only address issues that are unique to this case and shall
21 include instructions regarding the elements of each claim, any necessary definitions and a
22 proposed verdict form. The Joint Proposed Jury Instructions shall include:

- 23 (a) The instructions on which the parties agree; and
24 (b) Copies of instructions that are disputed (i.e., a copy of each party's
25 proposed version of an instruction upon which they do not agree). All jury instructions
26 from the most current edition of the Ninth Circuit Manual of Model Jury Instructions may
27 be proposed by number. The submission of the Joint Proposed Jury Instructions will
28 satisfy the requirements of LR 51.1(c).

1 Each party shall address any objections they have to instructions proposed by
2 any other party in a memorandum. The parties shall identify the specific portion of any
3 proposed instruction to which they object and shall elaborate the basis for the objection.
4 Objections asserting that an instruction sets forth an incorrect statement of law shall
5 describe the legal authority that supports this objection. Failure to file an objection and
6 supporting argument may be construed as consent to the adoption of an instruction
7 proposed by another party.

8 10. The parties are requested to submit courtesy copies of witness and exhibit lists
9 to the Court no later than **12:00 noon the Thursday before trial.**

10 11. An additional pretrial conference and motion hearing shall be held on
11 **November 24, 2014, at 8:30 a.m., in Spokane, Washington.**

12 (a) All additional motions shall be filed and served no later than **November 7,**
13 **2014.**

14 (b) Responses shall be filed and served no later than **November 14, 2014.**

15 12. Indigent Defendant's requests for issuance of subpoenas and payment of costs
16 and fees for trial witnesses shall be filed no later than ten days before trial, excluding
17 weekends and holidays.

18 13. Defendant's Motion to Dismiss Indictment and Request for Evidentiary Hearing,
19 filed September 5, 2014, **ECF No. 494**, is **DENIED with the right to renew** for the
20 reasons stated at the hearing.

21 14. Defendant's Motion to Expedite, filed September 22, 2014, **ECF No. 531**, is
22 **GRANTED.** The underlying Motion was considered on an expedited basis.

23 The District Court Executive is directed to file this Order and provide copies to
24 counsel.

25 **DATED** this 24th day of September, 2014.

26 s/ Wm. Fremming Nielsen

27 WM. FREMMING NIELSEN

28 SENIOR UNITED STATES DISTRICT JUDGE

09-23-14